

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HSBC BANK USA, N.A., AS TRUSTEE)	
ON BEHALF OF ACE SECURITIES)	
CORP. HOME EQUITY LOAN TRUST)	
AND FOR THE REGISTERED HOLDERS)	
OF ACE SECURITIES CORP. HOME)	
EQUITY LOAN TRUST, SERIES 2006-)	
ASAP2, ASSET BACKED PASS-)	
THROUGH CERTIFICATES,)	
)	
Plaintiff,)	
)	
v.)	No. 13 C 3467
)	
JEFFREY C. CURTIN, <i>et al.</i> ,)	District Judge Tharp Jr.
)	Magistrate Judge Cox
Defendants.)	

A N S W E R

Now comes the defendant, UNITED STATES OF AMERICA, by GARY S. SHAPIRO, United States Attorney for the Northern District of Illinois, and for the Internal Revenue Service, answers each numbered paragraph in Plaintiff's Complaint, after first restating each allegation, as follows:

1. Plaintiff files this Complaint to Foreclose the Mortgage hereinafter described.

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to Plaintiff's allegations contained in paragraph 1 of the Complaint.

2. Jurisdiction of this Court is based on diversity of citizenship, 28 U.S.C. 1332. There is complete diversity and the matters in controversy, exclusive of interest and costs, exceed the sum of \$75,000.

RESPONSE: The United States denies Plaintiff's allegations contained in paragraph 2 of the Complaint.

3. Plaintiff is a national association chartered in Virginia, and having its principal place

of business in the State of Virginia.

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to Plaintiff's allegations contained in paragraph 3 of the Complaint.

4. Defendant(s) is/are citizen(s) of the following State(s):

Jeffrey C. Curtin the State of IL

Marianna Curtin the State of IL

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to Plaintiff's allegations contained in paragraph 4 of the Complaint.

5. The citizenship of other persons or entities joined as defendants is as follows:

HOUSEHOLD BANK, F.S.B. - is a federal savings bank chartered under the laws of Illinois, and having its headquarters in the State of Illinois.

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to Plaintiff's allegations contained in paragraph 5 of the Complaint.

6. The United States of America, Internal Revenue Service is a party to this action pursuant to 28 USC 1340.

RESPONSE: The United States admits Plaintiff's allegations contained in paragraph 6 of the Complaint.

7. Venue is proper in this District because the Mortgage at issue is secured by property located in this District and because a substantial part of the events or omissions giving rise to the claim occurred here. 18 U.S.C. § 1391.

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to Plaintiff's allegations contained in paragraph 7 of the Complaint.

8. Plaintiff, elected to accelerate the principal balance due, together with accrued interest, fees and costs, and confirms that election by the filing of this complaint

RESPONSE: The United States is without knowledge or information sufficient to form a

belief as to Plaintiff's allegations contained in paragraph 8 of the Complaint.

9. Any pre-suit notice requirements have been met, and any and all grace periods have expired or have been waived.

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to Plaintiff's allegations contained in paragraph 9 of the Complaint.

10. Attached as Exhibit "A" is a copy of the Mortgage. Attached as Exhibit "B" is a true copy of the Adjustable rate note ("Note") secured thereby. Attached as Exhibit "C" is a copy of the Assignment of Mortgage.

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to Plaintiff's allegations contained in paragraph 10 of the Complaint.

11. Information concerning mortgage:

- a) Nature of instrument: Mortgage
- b) Date of mortgage: 11/23/2005
- c) Name of mortgagor: Jeffrey C. Curtin, Marianna Curtin
- d) Mortgage Information:
 - i. Name of Original Mortgagee: Flagship Mortgage Corporation
 - ii. Name of Current Mortgagee:
HSBC BANK USA, N.A., AS TRUSTEE ON BEHALF OF ACE SECURITIES CORP. HOME EQUITY LOAN TRUST AND FOR THE REGISTERED HOLDERS OF ACE SECURITIES CORP. HOME EQUITY LOAN TRUST, SERIES 2006-ASAP2, ASSET BACKED PASS-THROUGH CERTIFICATES
 - iii. Name of Current Loan Servicer: Ocwen Loan Servicing, LLC
- e) Date and place of recording:
Recorded on 12/29/2005 in the Office of the Cook County Recorder's Office
- f) Identification of recording:
Document/Instrument No. 0536305225
- g) Interest Subject to Mortgage: Fee Simple
- h) Amount of Original Indebtedness:, including subsequent advances made under the mortgage: \$208,000.00
- i) Both the legal description of the mortgaged real estate and the common address or other information sufficient to identify it with reasonable certainty:

LOT 10 IN BLOCK 7 IN THE FIRST ADDITION TO WALTER G. MCINTOSH'S METROPOLITAN ELEVATED SUBDIVISION, BEING A SUBDIVISION OF THAT PART OF THE SOUTH WEST 1/4 LYING NORTH OF THE SOUTH 1271.2 OF THE SOUTH 300 ACRES OF

SECTION 19, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN ALSO OF BLOCKS 78,79, AND 80 IN THE SUBDIVISION OF SAID SECTION 19 (EXCEPT THE SOUTH 300 ACRES THEREOF) IN COOK COUNTY, ILLINOIS

More Commonly Known As: 1614 South Wisconsin Avenue
Berwyn, IL 60402

Permanent Index No. 16-19-301-023-2000

- j) Statement as to defaults: The Mortgage is in default due to the failure of the mortgagor(s) to pay the monthly installments of principal, interest, and taxes, from 01/01/2012 through the present. There remains an outstanding principal balance of \$513,003.26 with interest accruing on the unpaid principal balance at \$28.50 per day, plus attorneys fees, foreclosure costs, late charges, advances, and expenses incurred by the Plaintiff as a result of the default.
- k) Name of present owner of the real estate:
Jeffrey C. Curtin, Marianna Curtin
- l) Names of other persons who are joined as defendants and whose interest in or lien on the mortgaged real estate is sought to be terminated:

That Household Bank, F.S.B. is a party to this action by virtue of a Junior Mortgage between Jeffrey C. Curtin and Marianna C. Curtin, Mortgagor(s), and Household Bank, F.S.B., Mortgagee, dated January 9, 1996 and recorded January 11, 1996 as document 96029808 in the amount of \$21,000.00

That United States of America, Internal Revenue Service is a party to this action by virtue of a IRS lien entered against Jeffrey C. and Marianna C. Curtin, filed August 24, 2007, in instrument 0723635120, in the amount of \$198,349.95

That United States of America, Internal Revenue Service is a party to this action by virtue of a IRS lien entered against Jeffrey C. and Marianna C. Curtin filed August 9, 2010 in instrument 1022126379, in the amount of \$59,941.37

That United States of America, Internal Revenue Service is a party to this action by virtue of a IRS lien entered against Jeffrey C. and Marianna C. Curtin filed December 20, 201, in instrument 1135526202, in the amount of \$65,685.68

That United States of America, Internal Revenue Service is a party to this action by virtue of a IRS lien entered against Jeffrey C. and Marianna C. Curtin filed June 29, 2012, in instrument 1218112079, in the amount of \$53,452. 10

- m) Names of defendants claimed to be personally liable for deficiency, if any:
Jeffrey C. Curtin, Marianna Curtin
- n) Capacity in which Plaintiff brings this foreclosure: Plaintiff is the legal holder of the indebtedness and the owner of the mortgage given as security given as security

- therefore.
- o) The redemption period terminates on one of the following dates, whichever is later:
If the Property is Residential Real Estate:
- (i) 7 months from the date the mortgagor [or, if more than one, all the mortgagors]
 - (I) have been served with summons or by publication or
 - (II) have otherwise submitted to the jurisdiction of the court; or
 - (ii) 3 months from the entry of the judgment of foreclosure.
- If the Property is Non-Residential Real Estate
- (i) 6 months from the date the mortgagor [or, if more than one, all the mortgagors]
 - (I) have been served with summons or by publication, or
 - (II) have otherwise submitted to the jurisdiction of the Court, if commercial real estate; or
 - (iii) 3 months from the entry of the judgment of foreclosure,
Pursuant to the terms of the 735 ILCS 5/15-1603, the Court will determine the length of the redemption period upon making a finding, based on the facts and circumstances available to the Court at the time of judgment, that the property is either residential, non-residential, abandoned, or real estate of value less than 90 percent of amount owed.
- p) Facts in support of request for attorneys' fees and of costs and expenses, if applicable:
Pursuant to the terms of the Note and Mortgage, the mortgagee is entitled to recover attorneys' fees, court costs, title costs, and other expenses, which plaintiff has been and will be required to expend in the prosecution of this foreclosure.
- q) Facts in support of a request for appointment of mortgagee in possession or for appointment of receiver, and identity of such receiver, if sought:
Plaintiff reserves the right to file a separate Petition for Appointment of Mortgagee in Possession or Receiver, if applicable.
- r) Plaintiff reserves the right to offer, in accordance with Section 15-1402 [735 ILCS 5/15-1402] to accept title to the real estate in satisfaction of all indebtedness and obligations secured by the mortgage without judicial sale.
- s) Name or names of defendants whose right to possess the mortgaged real estate, after the confirmation of a foreclosure sale, is sought to be terminated and, if not elsewhere stated, the facts in support thereof:
Jeffrey C. Curtin, Marianna Curtin By virtue of being the Mortgagor(s) and/or Owners of record

RESPONSE: The United States is without knowledge or information sufficient to form a belief as to Plaintiff's allegations contained in paragraph 11 of the Complaint, except to the extent that Jeffrey C. Curtin and Marianna Curtin have an interest in the subject property, the UNITED

STATES OF AMERICA admits that it has a lien in and to the premises involved herein, to secure a tax assessment balance of \$424,832.15 as of May 15, 2013, (plus accruing penalties and statutory interest), as alleged in paragraph 11 (I).

WHEREFORE, having fully answered, defendant, UNITED STATES OF AMERICA, prays that this Court dismiss the Complaint. Alternatively, the United States prays that the Court adjudicate the equities of the various parties to this suit, find that the United States of America has a valid and subsisting lien in and to the subject premises to secure the sum of \$424,832.15 as of May 15, 2013, plus interest and penalties. Further the UNITED STATES OF AMERICA prays that if the premises involved herein are sold free and clear of all liens and encumbrances, save the right of redemption vested in the UNITED STATES OF AMERICA by statute, the proceeds derived from said sale to be applied to the payment of the liens of the various parties to this cause in accordance with their respective priorities and that it may have such other and further relief as this court may deem just and proper, the premises considered.

GARY S. SHAPIRO
United States Attorney

/s/Joel R. Nathan
JOEL R. NATHAN
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-8449

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that in accordance with FED. R. CIV. P. 5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following documents:

ANSWER

were served pursuant to the district court's ECF system as to ECF filers, if any, and were sent by first-class mail on June 10, 2013 to the following non-ECF filers:

Julia M. Bochnowski
Burke Costanza & Carberry LLP
9191 Broadway
Merrillville, IN 46410

Jeffrey C. Curtin
1614 South Wisconsin Avenue
Berwyn, IL 60402

Marianna Curtin
1614 South Wisconsin Avenue
Berwyn, IL 60402

/s/Joel R. Nathan
JOEL R. NATHAN
Assistant United States Attorney